

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER JOHN WILSON,

Plaintiff,

v.

OFFICER SHARPS, *et al.*,

Defendants.

Case No. 1:21-cv-01651-CDB (PC)

ORDER DENYING AS PREMATURE
PLAINTIFF'S MOTION TO DELAY
RULING ON ANY MOTION FOR
SUMMARY JUDGMENT

(Doc. 34)

Plaintiff Christopher John Wilson is a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action filed under 42 U.S.C. § 1983. On August 28, 2023, the assigned district judge adopted the findings and recommendations of the undersigned that the action proceed on Plaintiff's claims in the operative First Amended Complaint (FAC) for Eighth Amendment excessive force against Defendants Sharp and Ward. (Docs. 25, 30).

On October 5, 2023, the Court granted Defendants' *ex parte* motion for leave to file a pre-answer motion for summary judgment on Plaintiff's failure to exhaust administrative remedies and for an extension of time to respond to the FAC. (Doc. 33). Defendants were ordered to file any pre-answer motion for summary judgment no later than November 16, 2023.

Pending before the Court is Plaintiff's motion, filed October 13, 2023 (Doc. 34), construed by the Court as a request by Plaintiff that the Court delay any ruling on a motion by

1 Defendants for summary judgment. Plaintiff's motion was accompanied by approximately 95
2 pages of "exhibits."

3 Defendants have not yet filed any motion for summary judgment, and, hence, Plaintiff's
4 request that the Court delay ruling on an unfiled motion is premature. As set forth in the Court's
5 earlier order, within 30 days of Defendants' filing of any motion for summary judgment, Plaintiff
6 is directed to file an opposition or statement of non-opposition. (Doc. 33 at 2).

7 **Conclusion and Order**

8 Accordingly, it is hereby ORDERED that Plaintiff's motion (Doc. 34) is DENIED AS
9 PREMATURE.

10 IT IS SO ORDERED.

11 Dated: **October 17, 2023**

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UNITED STATES MAGISTRATE JUDGE